

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)
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**SPECIAL MASTER ORDER RELATED TO
NOVEMBER 9, 2011 CONFERENCE**

With a conference having been conducted on November 9, 2011, before Special Master Ronald J. Hedges and Special Master Daniel Capra, with counsel for certain plaintiffs and defendants present, and for good cause shown, *and having considered the objections hereto,* it is hereby ordered as follows

1. In Krys v. Aaron, 08 Civ. 7416 (JSR), the time within which third-party defendants Patrina Farquharson and Andrew Feighery may answer, move, or otherwise plead with respect to the Third-Party Complaint be and hereby is extended by thirty days, to and including December 8, 2011;
2. In Kirschner v. Grant Thornton LLP, 07 Civ. 11604 (JSR), counsel for plaintiff is to confer with counsel for the remaining defendants so that a notice of dismissal can be submitted within thirty days of the date of entry of this Order;
3. In Thomas H. Lee Equity Fund V, L.P. v. Bennett, 05 Civ. 09608 (JSR), within thirty days of the date of entry of this Order, plaintiff is to advise the Court as to whether it intends to dismiss the action;
4. In Krys v. Sugrue, 08 Civ. 3065 (JSR) and 08 Civ. 3086 (JSR), the stay regarding the action against defendant Robert Trosten will be lifted on January 30, 2012, and defendant Trosten will answer, move, or otherwise plead on January 30, 2012;

5. As to any party that has not answered, moved to dismiss, or otherwise timely responded to claims asserted in all actions within the above-captioned multi-district litigation prior to the date of this Order, and as to whom no stay of litigation is in effect (“Defaulting Party”), and subject to any further order by the Court, any party that has asserted claims against a Defaulting Party prior to the date of this Order must obtain a certificate of default pursuant to Federal Rule of Civil Procedure 55(a) and S.D.N.Y. Local Civil Rule 55.1 within thirty days of the date of entry of this Order;

6. This Order does not affect or impair the rights of any party to pursue, as permitted by the Federal Rules of Civil Procedure, default judgments with respect to any pending or future claims, including but not limited to cross-claims or third-party claims, for which the time to file a responsive pleading has not expired as of the date of this Order;

7. Prior to filing any summary judgment or other dispositive motion, parties must confer with Special Master Capra;

8. Prior to filing any motion to add a party or to amend a pleading to add a party, parties must confer with Special Master Hedges; nothing herein shall be construed to permit plaintiffs in the Krys actions to amend their Complaint without seeking permission from Judge Rakoff pursuant to his individual practices;

9. On or before January 30, 2012, plaintiffs in Krys v. Sugrue, 08 Civ. 3065 (JSR) and 08 Civ. 3086 (JSR), Krys v. Aaron, 08 Civ. 7416 (JSR), Krys v. Deutsche Bank Securities Inc., 10 Civ. 3594 (JSR), and Krys v. Schulte Roth & Zabel, LLP, 11 Civ. 1486 (JSR), (collectively, “the Krys actions”) must issue and serve any third-party subpoenas and must provide to defendants a list identifying potential trial exhibits, a list identifying potential trial witnesses, and a list identifying expert witnesses, which includes the expert witnesses’ names, the subject matter or matters to be opined on by each such witness, and current curriculum vitae;


~~nothing herein shall be construed to prohibit plaintiffs from seeking leave, in the future, for permission to (a) make reasonable amendments to the plaintiffs' witness lists, exhibit lists or expert disclosure or (b) to issue and serve further third-party subpoenas.~~

10. On or before January 30, 2012, parties in the Krys actions that anticipate that they will use expert witnesses on affirmative claims against a third-party defendant must provide to other parties in their case a list identifying those expert witnesses, which includes the expert witnesses' names, the subject matter or matters to be opined on by each such witness, and current curriculum vitae; and

11. On or before January 30, 2012, defendants in the Krys actions must confer regarding the possible development and use of a common electronic document repository, possible procedures regarding the use of a common electronic document repository, and potential e-discovery vendors that could be retained with respect to the common electronic repository.

Dated: November 18, 2011

SO ORDERED.



Hon. Ronald J. Hedges
SPECIAL MASTER